

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: January 28, 2008:

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 5:00 o'clock p.m., Monday, January 28, 2008.

The Commissioners present or absent were as shown following:

Present: Coates, Williams, Wimmer, Walaker.

Absent: Mahoney.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Coates moved the Order of the Agenda be approved omitting Item "m" in the Consent Agenda.

Second by Wimmer. All the Commissioners present voted aye and the motion was declared carried.

Minutes Approved:

Commissioner Coates moved that the Minutes of the Regular Meeting of the Board held on January 14, 2008 be approved as read.

Second by Wimmer. All the Commissioners present voted aye and the motion was declared carried.

Consent Agenda Approved:

Commissioner Coates moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 1/14/08:
 - (1) Amending Section 1-0305 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Penalties for Ordinance Violations.
 - (2) Rezoning Certain Parcels of Land Lying in Meritcare Addition, Harwoods 2 and Keeney & Devitts 2nd Addition to the City of Fargo.
 - (3) Rezoning Certain Parcels of Land Lying in Erskines Addition to the City of Fargo.
- b. Appointment of Gennifer Baker and Daniel Garvens as special police officers for NDSU.
- c. Revised Joint Powers Agreement and Computer Aided Dispatch/Records Management System (CAD/RMS) Agreement to include the City of West Fargo in the Red River Regional Dispatch Center.

- d. Agreement regarding airport and attendant noises for Park District land located near Hector International Airport (Yunker Farm).
- e. Health Department budget adjustments and grant agreement with Dakota Medical Foundation for a Children's Obesity Summit.
- f. Health Department budget adjustments and grant agreements with the North Dakota Department of Health for immunization programs (CFDA # 93.268) and an HIV program (CFDA # 93.943).
- g. Fire Department budget adjustments in the amount of \$3,163.44 for haz mat training.
- h. Bid awards for Police Department/Prosecutor Office Remodeling Project to Woodsman Construction in the amount of \$33,105 (general); Grant's Mechanical in the amount of \$21,905 (mechanical); Dakota Electric in the amount of \$17,500 (electrical); Brown & Saenger in the amount of \$14,442.62 (furnishings); Hannaher's in the amount of \$21,194.39 (furnishings); and InterOffice in the amount of \$7,760.76 (furnishings).
- i. Applications for Games of Chance:
 - (1) Rosewood on Broadway for a raffle on 4/1/08.
 - (2) Washington Elementary PTA for a raffle on 2/22/08.
 - (3) Mental Health America of North Dakota for a raffle on 3/1/08.
 - (4) Knights of Columbus Council #782 for a raffle on 2/8/08.
 - (5) NDSU Bison Dairy Club for a raffle on 2/9/08.
 - (6) Washington School PTA for a raffle on 2/22/08.
 - (7) Clara Barton Hawthorne PTA for a raffle on 3/15/08.
- j. Site Authorization for the F-M Curling Club at the F-M Curling Club.
- k. Applications for five-year tax exemption for improvements made to buildings:
 - (1) Kim and Anita Kraft, 901 5th Avenue South.
 - (2) Jerome Kolbe, 1609 16th Street South.
 - (3) Vincent and Mila Alsace, 2017 8th Street North.
- l. Plat of RDO Truck Center Addition.
- m. Bid award to Air Liquide in the amount of \$143/ton for liquid oxygen for the Water Treatment Plant - rescind previous bid award to Aspen Air - (omitted).
- n. Change Order EO2, for an increase of \$1,224.58, for electrical work in connection with Phase I of the Central Garage Renovation.
- o. Bid advertisement for Project No. 5786.
- p. Bills in the amount of \$3,596,971.97.

Second by Wimmer. On call of the roll Commissioners Coates, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried

Seal Coat and Incidentals Improvement District No. 5778 (Various Locations City-Wide):

Commissioner Coates moved the following action be taken in connection with Seal Coat and Incidentals Improvement District No. 5778:

Adopt Resolution Creating Improvement District No. 5778:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5778, in the City of Fargo, North Dakota, be created

LOCATION: (Section 2)

On 34th Street North from 7th Avenue North to north end of cul de sac.

LOCATION: (Section 4)

On 39th Avenue South from west end of cul de sac west of 34th Street South to east end of cul de sac east of 33rd Street South.

On Timberline Circle from 32nd Street South to east end of Timberline Circle.

On 41st Avenue South from 32nd Street South to Timberline Drive.

On Timberline Drive from 41st Street South to 46th Avenue South.

On Timberline Drive from 46th Avenue South to south end of Timberline Drive.

On 42nd Avenue South from 32nd Street South to 36th Street South.

On 43rd Avenue South from 32nd Street South to 36th Street South.

On 44th Avenue South from 32nd Street South to 36th Street South.

On 45th Avenue South from 32nd Street South to 36th Street South.

On 46th Avenue South from 32nd Street South to 36th Street South.

On 32nd Street South from 40th Avenue South to 46th Avenue South.

On 33rd Street South from 39th Avenue South to 40th Avenue South.

On 34th Street South from 39th Avenue South to 46th Avenue South.

LOCATION: (Section 5)

On 14th Street South from 55th Avenue South to 57th Avenue South.

On 15th Street South from 55th Avenue South to 58th Avenue South.

On 16th Street South from 55th Avenue South to 57th Avenue South.

On 18th Street South from 57th Avenue South to 58th Avenue South.

On 19th Street South from a point located approximately 150 feet south of 56th Avenue South to 57th Avenue South.

On 20th Street South from 58th Avenue South to 57th Avenue South.

On 20th Street Circle South from 19th Street South to 57th Avenue South.

On 55th Avenue South from 14th Street South to 16th Street South.

On 57th Avenue South from 14th Street South to 20th Street South.

COMPRISING: (Section 2)

Lots 3, 6 and 7, Block 2.

All in Great Northern 5th Addition.

Lots 3 through 5, Block 1.
All in Replat of RWA Addition.

Lots 1 and 2, Block 1.
All in RWA 2nd Addition.

COMPRISING: (Section 4)

Lots 1 through 15, Block 1.
Lots 1 through 26, Block 2.
Lots 1 through 27, Block 3.
Lots 1 through 29, Block 4.
Lots 1 through 28, Block 5.
Lots 1 through 15, Block 6.
All in Fox Run Addition.

Lots 1 through 6, Block 1.
Lots 1 through 8, Block 2.
Lots 1 through 60, Block 3.
Lots 1 through 20, Block 4.
All in Timberline Addition.

Lots 1 through 13, Block 1.
Lots 1 through 28, Block 2.
Lots 1 through 13, Block 3.
All in Fox Run 2nd Addition.

Lots 1 through 13, Block 1.
Lots 1 through 26, Block 2.
Lots 1 through 27, Block 3.
Lots 1 through 15, Block 4.
All in Fox Run 3rd Addition.

Lots 8 through 54, Block 1.
Lots 1 through 18, Block 2.
All in Prairie Rose 1st Addition.

Lots 1 through 19, Block 1.
All in Prairie Rose 2nd Addition.

COMPRISING: (Section 5)

Lots 1 through 16, Block 1.
Lots 1 through 41, Block 2.
Lots 1 through 15, Block 3.
Lots 1 through 29, Block 4.
All in Legacy 1 1st Addition.

Lots 1 through 32, Block 1.
Lots 1 through 10, Block 2.
Lots 1 through 10, Block 3.
All in Shorewood Addition.

All of the foregoing located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Seal Coat and Incidentals Improvement District No. 5778, in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5778:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5778, in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$391,871.)

Order Plans and Specifications for Improvement District No. 5778:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5778, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5778:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5778, in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. 5778, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Seal Coat and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct Seal Coat & Incidentals, Improvement District No. 5778 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Seal Coat & Incidentals must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5778:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5778, in the City of Fargo, North Dakota.

Second by Wimmer. On call of the roll Commissioners Coates, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Emergency Shelter at 1519 1st Avenue South Named the Gladys Ray Shelter:

The Board received a communication from Senior Planner Dan Mahli stating the Emergency Shelter Advisory Board is recommending that the Fargo City Commission name the new emergency shelter in Fargo after Gladys Ray, a long time social justice advocate and volunteer in the Fargo Moorhead area. He said Ms. Ray was a model of leadership and a respected American Indian elder. She passed away in February 2006, he stated, after serving the Fargo community for over 50 years. Ms. Ray advocated for all people, he said, especially American Indians, children and the homeless. He said she also served as a mentor to many individuals and projects.

Commissioner Coates moved to acknowledge Gladys Ray's faithful service to the FM community by naming the new emergency shelter at 1519 1st Avenue South the Gladys Ray Shelter.

Second by Williams. On call of the roll Commissioners Coates, Williams, Wimmer and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Communication Received Regarding Timeline for Receipt of Petitions to Place Issues on the June 10, 2008 Ballot:

The Board received a communication from City Auditor Steve Sprague stating the Auditor's Office has received a number of calls regarding the deadline to put items on the June 10th election ballot. He said he prepared the following to show the time constraints:

June 10	Election Day
April 16	Ballot certified to the County
April 11	Last day to file
April 7	Last City Commission meeting to approve ballot items
April 3	Agenda deadline for April 7th meeting
March 24	NDCC requires 10 days to correct petition deficiencies
March 10	Two weeks for Auditor's office to validate petitions

March 3 Additional week if no phone numbers are provided
Mr. Sprague said this is not a hard and fast deadline, but his general recommendation would be that petitions requiring verification be received in the Auditor's office 90 days prior to the election to allow time for the validation process.

Commissioner Coates moved the communication from Mr. Sprague be received and filed.

Second by Wimmer. All the Commissioners present voted aye and the motion was declared carried.

At 5:10 p.m., the Board recessed until the 5:15 o'clock p.m. scheduled Hearings.

After recess: All Commissioners present except Commissioner Mahoney. Mayor Walaker presiding.

Application Filed by Midwest Motels of Fargo d/b/a Hampton Inn for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Midwest Motels of Fargo d/b/a Hampton Inn for a Class "GH" Alcoholic Beverage License at 3431 14th Avenue South, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Coates moved the application be approved.

Second by Wimmer. On call of the roll Commissioners Coates, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Resolution Adopted Approving Yunker Farm Addition (1201 28th Avenue North):

Commissioner Coates offered the following Resolution and moved its adoption:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, A Plat has been filed in the office of the City Auditor entitled "Yunker Farm Addition" containing 1 Lot, 1 Block and 54.78 acres of land more or less, located at 1201 28th Avenue North; and

WHEREAS, A Hearing was scheduled to be held December 12, 2007 by the Fargo Planning Commission, and notice of such Hearing had been published, as required by law, and said Plat had been approved by the Fargo Planning Commission and by the City Engineer; and

WHEREAS, The City Auditor's Office published a Notice of Hearing on said Plat in the official newspaper for the City of Fargo on January 14 and 21, 2008 that a Hearing would be held in the City Commission Room at the City Hall, Fargo, North Dakota at 5:15 o'clock p.m., January 28, 2008 at which time said Plat would be considered and all interested persons would be heard.

NOW, THEREFORE, BE IT RESOLVED, That the findings and recommendations of staff be accepted and the Plat entitled "Yunker Farm Addition" be and the same is hereby in all things affirmed and approved on the basis that it complies with the Comprehensive Plan, Standards of Article 20-06, and all other applicable requirements of the Land Development Code, and that the Mayor of the City of Fargo and the appropriate City Officials are hereby directed to endorse their approval on the Plat and then direct Petitioner to file same for record in the office of the Register of Deeds of Cass County, North Dakota.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

Parcels of Land in Yunker Farm Addition Rezoned (1201 28th Avenue North):

At a Hearing held on December 12, 2007 the Fargo Planning Commission recommended approval of a change in zoning from AG, Agricultural, to PI, Public/Institutional, on Yunker Farm Addition.

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for said Hearing at which time all interested persons could appear and would be heard.

Senior Planner Jim Hinderaker said the request for rezoning is straightforward and intended to bring the property into compliance. Mr. Hinderaker distributed an e-mail from Jeff and Colleen Gilmore, neighbors of the Yunker Farm Addition parcel. Mr. Hinderaker said the Gilmores are concerned about increased noise and development of the property. Planning Department staff and the Park District, he said, are working with the neighborhood and there are no plans for a road to go through the area. He said the request meets the criteria for approval and the Park District's use of the land has not changed.

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

WHEREAS, There have been no written or verbal protests to the request for rezoning and no one is present to protest thereto.

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that review criteria of Section 20-0906.F (1-4) has been met.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Yunker Farm Addition to the City of Fargo:

Commissioner Coates moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Yunker Farm Addition to the City of Fargo be placed on first reading.

Second by Wimmer. On call of the roll Commissioners Coates, Wimmer, Williams and Walaker voted aye.

Absent and not voting: Commissioner Mahoney.

The motion was declared carried.

Mayor Walaker stated the City of Fargo won a national award for innovative marketing ideas to promote recycling in the Cans for Cash Recycling Challenge. The award, he said, was to be presented at the U.S. Conference of Mayors last week but he was unable to attend the presentation and the award will be presented in Fargo at a later date.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, February 11, 2008.

Second by Coates. All the Commissioners present voted aye and the motion was declared carried.

The time at adjournment was 5:26 o'clock p.m.